

REMARKS

The Office Action dated September 1, 2005, has been received and carefully considered. In this response, claims 1, 8, 9, 17, 22 and 33 have been amended. Entry of the amendments to claims 1, 9, 17, 22 and 33 is respectfully requested. Applicant respectfully submits that claims 1, 8, 9, 17, 22 and 33, as amended, are similar in scope to previous versions of the claims, thus a new search is not required. It is believed that this Amendment, in conjunction with the following remarks, place the application in immediate condition for allowance. Accordingly, entry of this Amendment and favorable consideration of the application are respectfully requested.

I. THE OBJECTION TO CLAIMS 1 AND 9

On page 3 of the Office Action, claims 1 and 9 were objected to because of several informalities. Claims 1 and 9 were objected to because each includes "a" rather than "the." Applicant has amended each of claim 1 and 9 to correct the informalities.

In view of the foregoing, it is respectfully requested that the aforementioned objection to claims 1 and 9 be withdrawn.

II. THE ANTICIPATION REJECTION OF CLAIM 33

On page 4 of the Office Action, claim 33 was rejected under 35 U.S.C. § 102(e) as being anticipated by Youngs (U.S. Patent No. 6,600,918). This rejection is hereby respectfully traversed.

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. In re Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id.. "In addition, the prior art reference must be enabling." Akzo N.V. v. U.S. International Trade Commission, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987). That is, the prior art reference must sufficiently describe the claimed invention so as to have placed the public in possession of it. In re Donohue, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985). "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his own knowledge to make the claimed invention." Id..

Although Applicant does not agree with the pending rejection, Applicant has nonetheless amended claim 33 to clarify the step of "receiving radio programming from a radio programming source ***in a format compatible with a processor based data network.***" Applicant respectfully submits that Youngs does not teach or suggest any feature or functionality that comprises a processor based network as recited in the claim 33, and thus does not disclose receiving radio programming from a radio programming source in a format compatible with a processor based data network. Rather, as evidenced by the Examiner's reference to elements 50 and 52 of Figure 3, Youngs merely discloses generically receiving "transmissions from media program providers," and "receiving requests from [a] first wireless handset selecting one of the media programs." Applicant respectfully submits that such disclosures do not teach or suggest the step of "receiving radio programming from a radio programming source ***in a format compatible with a processor based data network.***"

In fact, the corresponding section of the specification of Youngs unequivocally states that "transmissions" are received by a cellular/wireless network, not a processor based network:

Turning now to FIG. 3, there is shown a flow diagram illustrating the general sequence of steps associated with the method of the present invention. ***The method begins with the wireless network receiving the transmissions from a plurality of media program providers, as shown at block 50.*** There may be some instances in which the wireless handset 24 can only receive a portion of the media program, such as the audio portion of an audio/video television transmission. In this case, the MSC 22 would only transmit the audio portion for transmission to the wireless handset 24.

Applicant respectfully submits that because Youngs merely teaches a wireless network that receives the transmissions from a plurality of media program providers, it does not therefore teach or suggest the step of "receiving radio programming from a radio programming source ***in a format compatible with a processor based data network.***"

Further, Applicant respectfully submits that Youngs does not teach or suggest the step of "forwarding the radio programming to the processor based data network ***for subsequent access and transmission by the cellular transmission network.*** Applicant respectfully submits that because Youngs does not teach or suggest a processor based network, it does not therefore teach or suggest forwarding the radio programming to the processor based data network for subsequent access and

transmission by the cellular transmission network. Applicant respectfully submits that Youngs merely discloses transmission through a cellular/wireless network, but does not teach or suggest any processor based network from which radio programming is subsequently accessed by a cellular transmission network.

Accordingly, Applicant respectfully submits that the anticipation rejection of claim 33 has been overcome.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claim 33 be withdrawn.

IV. THE OBVIOUSNESS REJECTION OF CLAIMS 1-19 AND 21-32

On page 4 of the Office Action, claims 1-19 and 21-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Youngs in view of Lee (U.S. Patent No. 6,728,531). This rejection is hereby respectfully traversed.

As stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable

expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant respectfully submits that the obviousness rejection of independent claims 9, 17 and 22 have been overcome by the remarks set forth above in connection with the anticipation rejection of claim 33. In particular, Applicant respectfully submits that Lee does not make up for Youngs deficiency in failing to teach or suggest any feature or functionality that "provid[es] **radio programming** in a format compatible with a processor based network," as expressly recited in claim 1.

Rather, Applicant respectfully submits that Lee merely teaches a gateway 30 that serves as an "Internet Service Provider" to enable access to "**information about** all AM, FM and TV analog audio broadcasts that can be received in a vehicle 184 within the host nation of the gateway network 30 (e.g., radio station call letters, programming format, frequency assignment, program listing, etc.):

FIG. 3 shows a system drawing of the Internet Gateway Network 30. The Internet gateway network 30 preferably consists of standard Internet TCP/IP protocol communications equipment 180 and computers 182 that serve multiple functions. **The gateway 30 is designed to provide wireless Internet access to the multimedia device 20 in the vehicle 184, enhance regular audio broadcasts with extended information, and provide personalized broadcast, information and applications to the vehicle 184.**

The gateway 30 serves as an Internet Service Provider to vehicles 184 through various forms of wireless transmission 186. Cellular access is expected to provide the initial form of wireless transmission with satellite transmissions to follow. In some implementations, requests from the vehicle 184 may come through the cellular network 186a while responses may be routed through FM sub-carriers 186b or faster satellite networks 186c. Wireless session servers 210 are preferably dedicated to maintaining connections with the rest of the gateway network 30 no matter what form of transmission is used.

To insure adequate throughput to vehicles 184, the gateway network 30 will cache most requested Internet data in a real time data cache 190, as well as convert retrieved Internet content through content converts 192 for appropriate display or verbalization on the multimedia device 20. Dedicated streaming data servers 188 will be used to broadcast personalized audio broadcasts to the vehicle 184, as well as rebroadcast other Internet audio broadcasts.

The Internet gateway network 30 also maintains a database management system to control several important system databases. **The gateway 30 provides a broadcaster relational database 194 containing information about all AM, FM and TV analog audio broadcasts that can be received in a vehicle 184 within the host nation of the gateway network 30 (e.g., radio station call letters, programming format, frequency assignment, program listing, etc.).** Related

databases (not shown) may maintain similar information for new digital broadcasters such as satellite radios who transmit over large geographic areas and for international Internet audio broadcasts. Information in the database concerning constantly changing program listings (e.g., song play lists, etc.) are preferably continuously updated throughout a day.

See Lee, Col.

Applicant respectfully submits that Lee -- as evidenced by the above excerpt -- does not teach or suggest any feature or functionality that "provid[es] **radio programming** in a format compatible with a processor based network," as expressly recited in claim 1. While Lee discloses that "gateway 30 provides a broadcaster relational database 194 containing **information about** all AM, FM and TV analog audio broadcasts that can be received in a vehicle 184 within the host nation of the gateway network 30 (e.g., radio station call letters, programming format, frequency assignment, program listing, etc.)," Applicant respectfully this is not the same as "providing **radio programming** in a format compatible with a processor based network." Accordingly, Applicant respectfully submits that for at least this reason independent claim 1 is allowable over the cited references.

Applicant respectfully submits that each of independent claim 9, 17, 22 and 33 include some variation of the step

"providing radio programming in a format compatible with a processor based network." Accordingly, Applicant respectfully submits that each of independent claims 9, 17, 22 and 33 is allowable over the cited references.

Claims 2-8, 10-16, 18-21 and 23-32 are dependent upon independent claim 1, 9, 17 or 22. Thus, since independent claims 1, 9, 17 and 22 should be allowable as discussed above, claims 2-8, 10-16, 18-21 and 23-32 should also be allowable at least by virtue of their dependency on independent claim 1, 9, 17 or 22. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination. For example, claim 8 recites "wherein the step of providing radio programming in a format compatible with a processor based network further comprises: accessing a radio station over the Internet." Applicant respectfully submits that neither Youngs nor Lee, alone or in combination, teach or suggest the system of claim 1 wherein the step of providing radio programming in a format compatible with a processor based network further comprises accessing a radio station over the Internet. Accordingly, Applicant respectfully submits that claim 8 is allowable for at least this reason.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 1-19 and 21-32 be withdrawn.

V. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

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Respectfully submitted,

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APPENDIX A

1. (Currently Amended) A method for broadcasting radio programming over a cellular transmission network, the method comprising:

providing radio programming in a format compatible with a processor based network;

~~verifying that the radio programming is in the format compatible with a processor based network;~~

~~converting the radio programming to the format compatible with the processor based network if the format is not provided as such;~~

enabling the radio programming to be accessible over [[a]] the processor based network, wherein the processor based network is connectable to a cellular transmission network; and

transmitting the radio programming over the cellular transmission network after the radio programming is accessed over the processor based network.

2. (Original) The method of claim 1, further comprising:

receiving the radio programming.

3. (Original) The method of claim 2, further comprising:

receiving the radio programming with a decoder receiver.

4. (Original) The method of claim 1, wherein the cellular transmission network transmits signals over a plurality of channels and the step of transmitting the radio programming further comprises:

transmitting advertising information over at least one of the plurality of channels.

5. (Original) The method of claim 4, wherein the step of transmitting advertising information further comprises:

transmitting the advertising information in a format that is displayable as a visual display.

6. (Original) The method of claim 1, wherein the cellular transmission network transmits signals over a plurality of channels and the step of transmitting the radio programming further comprises:

transmitting other information over at least one of the

plurality of channels.

7. (Original) The method of claim 6, wherein the step of transmitting other information further comprises:

transmitting the other information in a format that is displayable as a visual display.

8. (Currently Amended) The method of claim 1, wherein the step of providing radio programming in ~~an appropriate~~ a format compatible with a processor based network further comprises:

accessing a radio station over the Internet.

9. (Currently Amended) A system for broadcasting a radio program over a cellular transmission network, the system comprising:

a source for providing radio programming in a format compatible with ~~[[the]]~~ a processor based network;

an access device for: ~~(1) verifying that the radio programming is in the format compatible with the processor based network;~~ (2) ~~converting the radio programming to the format compatible with the processor based network if the format is not provided as such;~~ and (3) enabling the radio programming to be

accessible over [[a]] the processor based network, wherein the processor based network is connectable to a cellular transmission network; and

a transmitter for transmitting the radio programming over the cellular transmission network after the radio programming is accessed over the processor based network.

10. (Original) The system of claim 9, further comprising:

a receiver for receiving the radio programming.

11. (Original) The system of claim 10, wherein the receiver further comprises:

a decoder receiver for receiving the radio programming.

12. (Original) The system of claim 9, wherein the cellular transmission network transmits signals over a plurality of channels and the radio programming further comprises:

advertising information that is transmitted over at least one of the plurality of channels.

13. (Original) The system of claim 12, wherein the advertising information further comprises:

advertising information in a format that is displayable as a visual display.

14. (Original) The system of claim 9, wherein the cellular transmission network transmits signals over a plurality of channels and the radio programming further comprises:

other information transmitted over at least one of the plurality of channels.

15. (Original) The system of claim 14, wherein the other information further comprises:

information in a format that is displayable as a visual display.

16. (Original) The system of claim 9, wherein the source of providing radio programming further comprises:

a source for accessing a radio station over the Internet.

17. (Currently Amended) An access device for enabling radio programming to be accessible over a processor based network, the access device comprising:

an input for receiving radio programming in a format

compatible with the processor based network; and

~~a verification module for verifying that the radio programming is in a format compatible with the processor based network if not provided as such;~~

~~a converter for converting the radio programming to a format compatible with the processor based network if the format is not provided as such; and~~

a delivery module that delivers the radio programming to a cellular transmission network after the radio programming is accessed over the processor based network.

18. (Original) The access device of claim 17, wherein the processor based network is the Internet.

19. (Original) The access device of claim 17, wherein the input further comprises:

an over-air radio broadcast receiver.

20. (Original) The access device of claim 17, further comprising:

a signal compressor for compressing a signal associated

with the radio programming received as input; and

an encoder for encoding the signal.

21. (Original) The access device of claim 17, further comprising:

an additional input for receiving additional cellular transmission network signals.

22. (Currently Amended) A receiver for receiving a radio programming signal broadcast over a cellular transmission network, the receiver comprising:

an input for receiving the radio programming signal from a processor based data network through the cellular transmission network, the radio programming being transmitted through the cellular transmission network after being accessed from the processor based network, wherein the radio programming is received by the processor based network from a radio programming source in a format compatible with the processor based network;

an audio output for delivering an audible portion of the radio programming signal; and

a display for displaying a visible portion of the radio

programming signal.

23. (Original) The receiver of claim 22 further comprising:

a decoder for decoding the radio programming signal.

24. (Original) The receiver of claim 22 further comprising:

a decompressor for decompressing the radio programming signal.

25. (Original) The receiver of claim 22 further comprising:

an additional input for receiving additional cellular transmission signals.

26. (Previously Presented) The method of claim 1 wherein a broadcast gateway verifies that the radio programming is in an appropriate format.

27. (Previously Presented) The method of claim 1 wherein a broadcast gateway converts the radio programming to an appropriate format.

28. (Previously Presented) The method of claim 1 wherein a broadcast gateway forwards the radio programming to the processor based network.

29. (Previously Presented) The access device of claim 17 further comprising a verification module for verifying that the radio programming is in an appropriate format.

30. (Previously Presented) The method of claim 1 wherein the processor based network comprises the Internet.

31. (Previously Presented) The system of claim 9 wherein the processor based network comprises the Internet.

32. (Previously Presented) The receiver of claim 22 wherein the processor based network comprises the Internet.

33. **(Currently Presented)** A method for broadcasting radio programming over a cellular transmission network, the method comprising:

receiving radio programming from a radio programming source in a format compatible with~~through~~ a processor based data network; and

~~verifying that the radio programming is in an appropriate format for transmission by a cellular transmission network;~~

~~converting the radio programming to an appropriate format if the radio programming is not verified; and~~

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forwarding the radio programming to the processor based data network for subsequent access and transmission by the cellular transmission network.